UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GOLDSTEIN DEVELOPMENT CORP., Appellant, -against- BERLIN & DENMAR DISTRIBUTORS, INC., Debtor/Appellee.	Case No. 14-cv-05749 (LGS) Bankruptcy Case No. 10-15519-smb Adv. Pro No. 13-01315 **DECLARATION**

Jonathan W. Rich, an attorney duly admitted to practice law in this court, pursuant to 28 U.S.C. §1746, declares as follows:

1. I am associated with the law firm of Robinson Brog Leinwand Greene Genovese & Gluck P.C., attorneys for debtor/appellee Berlin & Denmar Distributors, Inc. ("Berlin"). As such, I am fully familiar with the facts and circumstances of the above-captioned action.

2. I make this declaration in support of Berlin's motion to dismiss the appeal of appellant Goldstein Development Corp., pursuant to Rule 8009(a)(1) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 41(b) of the Federal Rules of Civil Procedure for Goldstein's failure to timely file its brief on appeal in violation of Bankruptcy Rule 8009(a)(1), as well as this Court's order made on the record at the August 12, 2014 conference.

3. On August 13, 2014, Berlin attempted to file the within motion via letter brief (Docket # 6), but was advised by this Court on August 14, 2014 that requesting the dismissal of the within appeal had to be made by motion.

4. Goldstein not only failed to file its brief pursuant to the time limit set forth in Bankruptcy Rule 8009(a)(1), but has failed to file its brief in violation of this Court's one-day extension provided at the August 12, 2014 conference. At that conference, counsel for Goldstein represented to this Court that Goldstein would comply with this Court's extension, which specifically ordered Goldstein to do so by the "end of business" that same day.

5. At present, Goldstein has not only still failed to file its brief, but has also failed to request a further extension from either your declarant or, upon information and belief, this Court.

6. Such utter disregard for the rules of procedure and this Court's explicit order is nothing new to Goldstein in this matter.

7. The underlying adversary proceeding that Berlin commenced on March 29, 2013 under (Adv. Pro. No. 13-01315 (SMB)) is based upon Goldstein's unilateral repudiation of its agreement to purchase Berlin's property in Berlin's bankruptcy proceeding. By decision and order dated May 23, 2014, the Bankruptcy Court (Bernstein, J.) granted Berlin's motion for summary judgment on its claims against Goldstein, which Goldstein has now appealed to this Court.

8. Throughout the adversary proceeding, Goldstein has dragged its feet at every possible opportunity in a blatant effort to avoid its ultimate responsibility to Berlin.

9. For example, in the adversary proceeding, Goldstein filed counterclaims against Berlin, all of which except for its baseless claim for attorneys' fees were thereafter withdrawn at the very last minute. However, while those claims were still pending, Goldstein completely failed to provide any discovery when requested, depriving Berlin of any opportunity to defend itself against them.

10. Goldstein also failed to appear for a pre-trial conference before Judge Bernstein on August 22, 2013, which resulted in the Bankruptcy Court granting Berlin's oral request for a default judgment. However, shortly thereafter, Goldstein manufactured an excuse for failing to appear and moved to vacate the default, which forced Berlin to expend more unnecessary time and legal fees. When Berlin realized that the Bankruptcy Court was willing to vacate the default and decide the case on its merits, Berlin consented to placing the case back on the calendar for a fixed trial date.

11. Instead of proceeding to trial, because Goldstein's liability was undisputed, Berlin moved for and was awarded summary judgment on its claims. It is reasonable to believe that the within appeal is Goldstein's latest attempt to overturn yet another of Judge Bernstein's well-reasoned opinions on Goldstein's liability in this matter.

12. Based on the foregoing, it is respectfully requested that this Court grant Berlin's motion to dismiss Goldstein's appeal with prejudice, and save this Court and Berlin from wasting even more unnecessary time and resources entertaining Goldstein's abuse of the legal system.

Dated: New York, New York
August 15, 2014

/S/ Jonathan W. Rich
Jonathan W. Rich, Esq.